



Special Issue

Penalties pursuant to the Constituent Decree of the Tax Code (referred to as, COT)¹

Where a taxpayer fails to comply with the tax liabilities listed below, the Tax Authorities may apply, following the procedures set out in the COT, the penalties listed below:

Tax return filing:

- **Failing to file tax returns; delayed filing of tax returns (delay exceeding 1 year)**

Pursuant to COT, the Tax Authorities may shut down the establishment for 10 days and impose a fine of 150 times the official exchange rate of the highest-valued currency published by the Central Bank of Venezuela (BCV)².

(<http://www.bcv.org.ve/estadisticas/tipo-de-cambio>).

- **Filing an incomplete tax return or delayed filing of tax returns (equal or under 1 year)**

Pursuant to COT, the Tax Authorities may impose a fine of 100 times the official exchange rate of the highest-valued currency published by BCV.³

(<http://www.bcv.org.ve/estadisticas/tipo-de-cambio>).

Delayed payment or no tax or installments are paid⁴

-Delayed payment of taxes and installments:

COT defines delayed payment of taxes as taxes paid within a period other than the statutory period; where no extensions have been granted and where no tax audit or verification is initiated by the Tax Authorities.⁵

Pursuant to COT, fines are imposed based on time of payment of taxes and installments:

- (i) Tax or installment is paid within the period of 1 year from the date in which tax is due: fine of 0,28% of tax due per day of delay up to a maximum of 100%;
- (ii) Tax or installment is paid within a period exceeding 1 year from the date in which tax is due: additional fine of 50% of tax due; and,
- (iii) Tax or installment is paid within a period exceeding 2 years from the date in which tax is due: additional fine of 150% of tax due.⁶

No tax is paid

Pursuant to COT, where a taxpayer fails to pay the tax due, the Tax Authorities may impose a fine between 100% and 300% of omitted tax due⁷. Fine may apply regardless

¹ Published in the Official Gazette of the Bolivarian Republic of Venezuela Special No. 6.507, of January 29, 2020.

² Article 103 COT.

³ Art. 103 COT.

⁴ Art. 109 (1) COT.

⁵ Artículo 110, encabezado del COT.

⁶ Art. 110 COT.

Penalties apply where no procedure for tax collection, verification or tax audit has been initiated by the tax authorities.

⁷ Article 112 COT: A taxpayer that illegally diminishes tax due (...) shall be subject to a fine between 100% and 300% of amount not paid, regardless of the penalties set forth in article 119.



of the penalties set forth in article 119 of COT (tax fraud), described below.

Failing to withhold taxes

Pursuant to COT⁸, where a taxpayer fails to withhold and pay withheld taxes, the taxpayer may be subject to the following penalties:

- (i) No withholding: 500% of the amount withheld;
- (ii) Withhold less than the amount due: 100% of amount not withheld;
- (iii) Pay withheld taxes within a period other than the statutory period: 5% of withheld taxes, per day of delayed payment, up to a maximum of 100 days. Where a taxpayer pays withheld amounts within a period other than the 100 days referred to above, or paid withheld amounts during a tax audit or tax verification procedure, whether such period of 100 days expired or not, the taxpayer may be punished with imprisonment and a fine of 1,000% of withheld amounts; and,
- (iv) Where the taxpayer failed to pay withheld amounts, the taxpayer may be punished with a penalty of 1,000% of amounts due; taxpayer may also be punished with imprisonment between 4 and 6 years.^{9 10}

Tax Fraud

According to COT, tax fraud may be punished with imprisonment. Imprisonment

should be imposed following the procedures set forth in COT.

A taxpayer incurs in tax fraud where the taxpayer conceals, cheats or in any way willfully diminishes tax due¹¹.

The taxpayer may be subject to imprisonment between 6 months and 7 years¹², as proven by a criminal court of law. However, criminal charges may be dropped if the taxpayer admits to the tax fraud and pays taxes, penalties and interests, increased in 500% of the amount due, within the period of 10 business days after tax resolution is served.¹³

How can we help

- Review your tax liabilities to assess tax contingencies in the event of a tax audit;
- Prepare tax contingencies, based on the findings;
- Prepare a defense file, based on review referred to in the first issue.

For further information, please contact us:

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⁸ Art 109(3) COT.

⁹ Art. 115 COT.

¹⁰ Art. 121 COT

¹¹ Art. 119 COT.

¹² Art. 119 COT.

¹³ Art. 118 COT